

## **806 KAR 12:170. Life insurance disclosures**

RELATES TO: KRS 304.12-010, 304.12-020, 304.12-230

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code, KRS Chapter 304. This administrative regulation establishes requirements for insurers to deliver information to purchasers of life insurance that is designed to improve the buyer's ability to select the most appropriate plan of life insurance for the buyer's needs and improve the buyer's understanding of the basic features of the policy that has been purchased or is under consideration.

Section 1. Definitions. (1) "Buyer's Guide" means the current Life Insurance Buyer's Guide published by the Commonwealth of Kentucky Department of Insurance.

(2) "Generic name" means a short title that is descriptive of the premium and benefit patterns of a policy or a rider.

(3) "In force illustration" means an illustration furnished after the policy has been in force for one (1) year or more.

(4) "Nonguaranteed elements" means the premiums, credited interest rates, including any bonus, benefits, values, non-interest based credits, charges, or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(5) "Policy data" means a display or schedule of numerical values, both guaranteed and nonguaranteed, for each policy year or a series of designated policy years of the following information:

- (a) Illustrated annual, other periodic, and terminal dividends;
- (b) Premiums;
- (c) Death benefits; and
- (d) Cash surrender values, outstanding policy loans, current policy loan interest rate, and endowment benefits.

(6) "Policy summary" means a separate document describing the elements of the policy and complying with the requirements established in Section 3 of this administrative regulation.

Section 2. Application. (1) Except as provided in subsection (2) of this section of this administrative regulation, this administrative regulation shall apply to:

(a) A solicitation, negotiation, or procurement of life insurance occurring within this state; and

(b) An issuer of life insurance contracts including fraternal benefit societies.

(2) This administrative regulation shall not apply to:

- (a) Individual and group annuity contracts;
- (b) Credit life insurance;
- (c) Group life insurance;
- (d) Life insurance policies issued in connection with pension and welfare plans which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. Section 1001 et seq. as amended; or

(e) Variable life insurance under which the amount or duration of the life insurance varies according to the investment experience of a separate account.

Section 3. Policy Summary. A policy summary shall describe the elements of the policy including the following:

(1) A permanently placed title stating: "STATEMENT OF POLICY COST AND BENEFIT INFORMATION";

(2) The name and address of the insurance agent or, if an agent is not involved, a statement of procedure to be followed in order to receive responses to inquiries regarding the policy summary;

(3) The full name and home office or administrative office address of the life insurance company issuing the policy;

(4) The generic name of the basic policy and each rider;

(5) The following amounts shall be listed in total, not on a per thousand or per unit basis and, if applicable for the first ten (10) policy years and representative policy years thereafter, the amounts shall be listed sufficiently to clearly illustrate the premium and benefit patterns, including at least an age from sixty (60) through sixty-five (65) and policy maturity:

(a) The annual premium of the basic policy;

(b) The annual premium for each optional rider;

(c)1. The amount payable upon death at the beginning of the policy year pursuant to the basic policy with additional benefits for each rider shown separately.

2. If more than one (1) insured is covered pursuant to one (1) policy or rider, death benefits shall be displayed separately for each insured or for each class of insured's if death benefits do not differ within the class;

(d) The total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider; and

(e) Endowment amounts payable pursuant to the policy that are not included pursuant to the cash surrender values described in this subsection;

(6)(a) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether the rate is applied in advance or in arrears.

(b) If the policy loan interest rate is adjustable, the policy summary shall state that the annual percentage rate shall be determined in accordance with the provisions of the policy and the applicable law; and

(7) The date on which the policy summary was prepared.

Section 4. Duties of Insurers. (1) Requirements for new issues.

(a)1. Except as provided in subparagraph 2 of this paragraph, the insurer shall provide the Buyer's Guide to each prospective purchaser prior to accepting the applicant's initial premium or premium deposit.

2. If the policy for which application is made contains an unconditional refund provision of at least ten (10) days, the Buyer's Guide may be delivered with the policy or prior to delivery of the policy.

(b) The insurer shall provide a policy summary to prospective purchasers in which the insurer shall identify the policy form as not marketed with an illustration.

1. The policy summary shall show guarantees only.

2. The policy summary shall consist of a separate document with all required information set out in a manner that does not minimize or render any portion of the summary obscure.

3. Amounts that remain level for two (2) or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year.

4. Amounts in Section 3(5) of this administrative regulation shall be listed in total, not on a per thousand or per unit basis.

5. If more than one (1) insured is covered under one (1) policy or rider, death benefits shall

be displayed separately for each insured or for each class of insured if death benefits do not differ within the class.

6. Zero amounts shall be displayed as a blank space.

7. Delivery of the policy summary shall be consistent with the time for delivery of the Buyer's Guide as specified in paragraph (a) of this subsection.

(2) Requirements applicable to existing policies.

(a) Upon request by the policy owner, the insurer shall furnish the policy data or an in force illustration as follows:

1. For policies issued prior to January 1, 2008, the insurer shall furnish policy data, or, at its option, an in force illustration meeting the requirements of 806 KAR 12:140.

2. For policies issued on and after January 1, 2008 and declared not to be used with an illustration, the insurer shall furnish policy data, limited to guaranteed values, if it has chosen not to furnish an in force illustration meeting the requirements of 806 KAR 12:140.

3. If the policy was issued on and after January 1, 2008 and declared to be used with an illustration, an in force illustration shall be provided.

4. Unless otherwise requested, the policy data shall be provided for twenty (20) consecutive years beginning with the previous policy anniversary.

5. The insurer may charge a reasonable fee for the policy data, not to exceed ten (10) dollars.

(b)1. If a life insurance company changes its method of determining scales of nonguaranteed elements on existing policies, it shall notify each affected policy owner of the change and its effect on the policy no later than the date of the first payment on the new basis.

2. The requirement established in subparagraph 1. of this paragraph shall not apply to policies for which the death benefit pursuant to the basic policy on the date of notice does not exceed \$5,000.

(c) If the insurer makes a material revision in the terms and conditions which will limit its right to change any nonguaranteed factor, it shall notify each affected policy owner of the change no later than the first policy anniversary following the revision.

Section 5. General Rules. (1)(a) Prior to commencing a life insurance sales presentation, an agent shall inform the prospective purchaser that the agent is acting as a life insurance agent.

(b) The agent shall inform the prospective purchaser in writing of the full name of the insurance company which the agent represents.

(c) In sales situations in which an agent is not involved, the insurer shall identify the insurer's full name.

(2)(a) An insurance producer marketing insurance products shall not use a title or designation, including "financial planner," "investment advisor," "financial consultant," or "financial counseling" to imply that the insurance producer is engaged in an advisory or consulting business in which compensation is unrelated to sales.

(b) This subsection shall not preclude:

1. A person recognized as having a financial planning or consultant designation from using the designation even if only selling insurance; or

2. Members of a recognized trade or professional association from having these terms as part of the organization's name from citing membership. If authorized only to sell insurance products, a person citing membership shall disclose that fact.

(c) A person shall not charge an additional fee for services customarily associated with the solicitation, negotiation, or servicing of policies.

(3)(a) A reference to nonguaranteed elements shall include a statement that the item is not guaranteed and is based on the company's current scale of nonguaranteed elements.

(b) If a nonguaranteed element would be reduced by the existence of a policy loan, a statement to that effect shall be included in each reference to nonguaranteed elements.

Section 6. Failure to Comply. Failure of an insurer to provide or deliver the Buyer's Guide, an in force illustration, a policy summary, or policy data shall constitute an omission that misrepresents the benefits, advantages, conditions, or terms of an insurance policy.

Section 7. Effective Date. The requirements of this administrative regulation shall not be implemented or enforced prior to the effective date, determined pursuant to KRS 13A.330, or January 1, 2012, whichever is later.

Section 8. Incorporation by Reference. (1) "The Life Insurance Buyer's Guide, Commonwealth of Kentucky", July 2011, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site at: <http://insurance.ky.gov/>. (33 Ky.R. 4305; Am. 34 Ky.R. 298; 738; eff. 11-2-2007; 37 Ky.R. 1087; 1714; eff. 3-4-2011; 38 Ky.R. 329; eff. 11-4-11.)